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Heritage-Nevada VIII, LLC*

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

HERITAGE-NEVADA VIII, LLC,

Plaintiff,

v.

WORLD MARKET CENTER
VENTURE, LLC,

Defendant.

Case No. 3:08-mc-80245-VRW

(Case No. 2:08-cv-00130-PMP-RJJ
pending in the United States District Court
for the District of Nevada)

**FOURTH JOINT STIPULATION
REQUESTING A 60-DAY
CONTINUANCE OF WORLD
MARKET CENTER VENTURE
LLC'S MOTION TO QUASH
SUBPOENA AND PROPOSED
ORDER THEREON, IN LIGHT OF
RELATED MOTION TO COMPEL
PENDING IN DISTRICT OF NEVADA**

Plaintiff-opposer Heritage-Nevada VIII, LLC ("Heritage"), defendant-
movant World Market Center Venture, LLC ("WMC"), and joining party Cost Plus
Management Services, Inc. ("Cost Plus") hereby submit the following fourth joint
stipulation and proposed order for a 60-day continuance of the May 28, 2009
hearing date and all related opposition and reply deadlines in connection with

1 WMC's pending motion to quash a subpoena that Heritage previously served upon
2 Cost Plus, in light of a related motion to compel currently pending in the District of
3 Nevada (Heritage, WMC, and Cost Plus are collectively the "parties").

4 This Court previously continued the hearing date for WMC's pending quash
5 motion from January 29, 2009 to March 19, 2009, and then to April 23, 2009, and
6 then to May 28, 2009, based upon the parties' filing of January 8, 2009,
7 February 23, 2009, and April 1, 2009 joint stipulations requesting such relief. The
8 prior stipulations requested a continuance because the information and materials
9 that are the subject of Heritage's subpoena and WMC's motion to quash overlap at
10 least in part with documents that are the subject of Heritage's motion to compel
11 currently pending in the United States District Court for the District of Nevada, the
12 court responsible for and most familiar with the underlying litigation and its
13 background facts. As discussed in the prior stipulations, WMC cited this overlap
14 in its moving papers. *See, e.g.*, WMC supporting memorandum of law at 4, 7
15 (arguing that the documents that Heritage seeks in its subpoena "are presently the
16 subject of [a] dispute that is being heard on an expedited basis by the Nevada
17 District Court").

18 As referenced in the parties' prior stipulations, Heritage's motion to compel
19 in the District of Nevada has been fully briefed and was argued on January 15,
20 2009, and the parties await the court's decision on that motion to compel.

21 The parties remain in agreement that the resolution of Heritage's motion to
22 compel could be helpful and potentially instructive to this Court, and that a 60-day
23 continuance of the May 28, 2009 hearing date and all related filing deadlines
24 remains desirable and warranted in the interests of judicial economy. Because the
25 Nevada motion remains pending, and also in the interests of judicial economy, the
26 parties further agree that a 60-day continuance is now warranted, unlike the 30-day
27 continuances that were previously requested.

The parties stipulate that the deadline for all opposition and reply filings will be based upon the newly-selected hearing date, in accordance with the Northern District of California local rules.

The parties reserve all rights, remedies, objections, and arguments in connection with this motion to quash, including (1) Heritage's argument that WMC's motion was procedurally defective and not filed in accordance with the Northern District of California local rules; (2) WMC's and Cost Plus' argument that Heritage's subpoena was procedurally defective and not served in accordance with these local rules; and (3) Cost Plus' request that if WMC's motion to quash is denied and Cost Plus is ordered to comply with Heritage's subpoena, Heritage should be ordered to pay for Cost Plus' costs and fees.

Dated: May 6, 2009

IT IS SO STIPULATED.

<u>/s/ Michael A. Firestein</u> Michael A. Firestein (SBN 110622) mfirestein@proskauer.com PROSKAUER ROSE LLP 2049 Century Park East 32nd Floor Los Angeles, CA 90067-3206 Tel: 310.557.2900 Fax: 310.557.2193 Brendan J. O'Rourke* Adam D. Siegartel* PROSKAUER ROSE LLP 1585 Broadway New York, NY 10036 Tel: 212.969.3000 Fax: 212.969.2900 *Admitted <i>pro hac vice</i> in District of Nevada <i>Attorneys for plaintiff-opposer</i> <i>Heritage-Nevada VIII, LLC</i>	<u>/s/Rob L. Phillips</u> Rob L. Phillips (SBN 175354) phillipsr@gtlaw.com Mark G. Tratos** Ronald D. Green** F. Christopher Austin** GREENBERG TRAURIG LLP 3773 Howard Hughes Parkway Suite 500 North Las Vegas, NV 89101 Tel: 702.792.3773 Fax: 702.792.9002 **Admitted in District of Nevada <i>Attorneys for defendant-movant</i> <i>World Market Center</i> <i>Venture, LLC</i>	<u>/s/Marcy J. Bergman</u> Marcy J. Bergman (SBN 75826) (marcy.bergman@bryancave.com) Bryan Cave LLP Two Embarcadero Center Suite 410 San Francisco, CA 94111 Tel: 415.675.3421 Fax: 415.675-3621 <i>Attorneys for joining party</i> <i>Cost Plus Management Services, Inc.</i>
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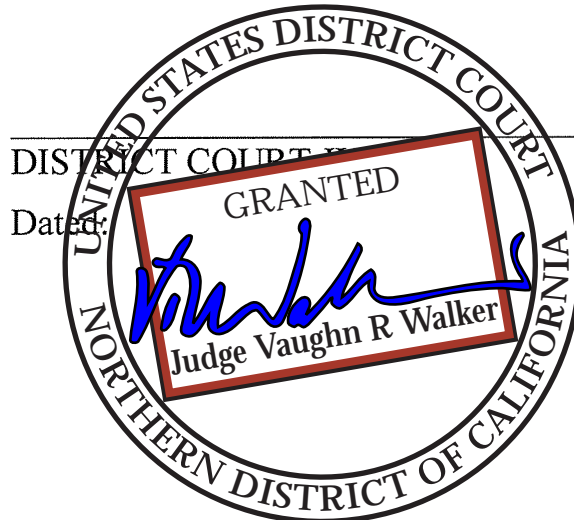
I hereby attest that I have on file all holograph signatures for any signatures indicated by a "conformed" signature (/S/) within this efiled document.

/s/ Michael A. Firestein
Michael A. Firestein

~~PROPOSED~~ ORDER

Having considered the foregoing third joint stipulation requesting a 60-day continuance of World Market Center Venture LLC's motion to quash subpoena, in light of related motion to compel pending in District of Nevada, it is HEREBY ORDERED that the hearing date for this motion is continued to August 6, 2009, and that all opposition and reply filings will be based upon this new hearing date in accordance with the Northern District of California local rules.

Date: 5/18/2009



CERTIFICATE OF SERVICE

I declare that: I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within cause; my business address is Proskauer Rose LLP, 2049 Century Park East, Suite 3200, Los Angeles, California 90067-3206. I am admitted to practice in the United States District Court for the Northern District of California.

On May 6, 2009, I caused a true and correct copy of the Fourth Joint Stipulation Requesting A 60-Day Continuance Of World Market Center Venture LLC's Motion To Quash Subpoena And Proposed Order Thereon, In Light Of Related Motion To Compel Pending In District of Nevada, to be served by first class mail and electronic mail upon counsel for World Market Center Venture, LLC and Cost Plus Management Services, Inc. at the following addresses:

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Cost Plus Management Services, Inc.

Executed on May 6, 2009 at Los Angeles, California.

_____/s/ Michael F. Firestein
Michael F. Firestein